



STATE OF ALABAMA ETHICS COMMISSION

MAILING ADDRESS

P. O. Box 4840
Montgomery, AL 36103-4840

STREET ADDRESS

RSA Union Building
100 North Union Street, Suite 104
Montgomery, AL 36104

E. J. (Mac) McArthur
Director

TELEPHONE (334) 242-2997
FAX (334) 242-0248

H. Dean Buttram, Jr., Chair
James T. Pursell, Vice-Chair
Henry B. Gray, III
Camille S. Butrus
Helen Shores Lee

October 4, 1995

ADVISORY OPINION NO. 95-74

Representative Dave Thomas
House of Representatives
49 Forman Street
Springville, Alabama 35146

Conflict Of Interests/
Legislator - Conflict Of
Interests/ Accepting
Employment As A Fund
Raiser With A Non-Profit
Charitable Organization.

A Legislator may not
accept employment as a
fund raiser with a non-
profit charitable
organization.

Dear Representative Thomas:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTIONS PRESENTED

1. May a legislator accept employment as a fund raiser with a non-profit charitable organization without violating the Alabama Ethics law?
2. If it is permissible for a legislator to accept employment as a fund raiser with a non-profit charitable organization, then can this legislator's compensation package include a commission structure in addition to his/her base salary?

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FACTS AND ANALYSIS

By way of reference, this opinion is issued pursuant to a request by Representative Dave Thomas, House of Representatives, District No. 49, St. Clair County. Representative Thomas has posed the above stated questions.

In the case at hand, this legislator's primary responsibilities as a fund raiser with the Christian Service Mission, would include creating marketing materials and using these tools while speaking in a fund raising capacity to various groups. Representative Thomas specifically inquired as to whether or not he would be violation of Alabama's Ethics law by soliciting individuals, civic or business organizations for donations to the Christian Service Mission.

Representative Thomas feels that his skills and education will be an asset to the Christian Service Mission, an organization serving victims of substance abuse, physical abuse, neglect and those simply hungry for a chance at life.

The Alabama Ethics law, Code of Alabama, 1975, Section 36-25-5(a) states:

"No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-5(e) states:

"No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she

directly inspects, regulates, or supervises in his or her official capacity."

Section 36-25-7(b) states:

No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action."

Section 36-25-7(d) states:

"No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities."

Section 36-25-12 states:

"No person shall offer or give to a member or employee of a governmental agency, board, or commission that regulates a business with which the person is associated, and no member or employee of a regulatory body, shall solicit or accept a thing of value while the member or employee is associated with the regulatory body other than in the ordinary course of business."

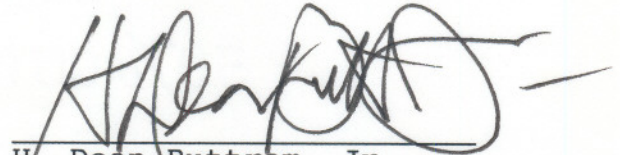
CONCLUSION

Based on a review of the aforementioned statutes and the facts as presented by Representative Dave Thomas, it is the opinion of the Alabama Ethics Commission that this legislator may not accept employment as a fund raiser with the Christian Service Mission.

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AUTHORITY

By 3 - 2 vote of the Alabama Ethics Commission on October
4, 1995.



H. Dean Buttram, Jr.
Chairman
Alabama Ethics Commission